

Neifeld Docket No: CAT/34-SCRO-US

Application/Patent No: 08/873,9747,966,222

USPTO CONFIRMATION NO: 2461

File/Issue Date: 6/12/1997/6/21/2011, CPA FILED AUGUST 17, 1999

Inventor/Title: SCROGGIE/SYSTEM AND METHOD FOR DISTRIBUTING INFORMATION
THROUGH COOPERATIVE COMMUNICATION NETWORK SITES

Examiner/ArtUnit: ROBINSON/3628

ENTITY STATUS: Large

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT

I. Statement of the Precise Relief Requested

The patentee requests that the Director change the notice of patent term adjustment under 35 USC 154 from 2288 days to 3142 days.

II. Material Facts in Support of the Petition

1. The Director determined a 2288 day patent term extension, as noted on the patent issued June 21, 2011.

USPTO DELAY

35 USC 154(b)(1)(A)

2. This section is not applicable.

35 USC 154(b)(1)(B)

3. On March 2, 2001, the applicant filed the most recent continuing prosecution application in this application (hereinafter “effective filing date”).

4. March 2, 2004 is three years from the effective filing date.

5. On June 21, 2011, this application issued into a patent.

6. The first period of USPTO delay spans March 2, 2004 until June 21, 2011. The number of days in this period is 2667.

35 USC 154(b)(1)(C)

7. On July 10, 2001, the applicant filed a notice of appeal.

8. On July 30, 2004, the BPAI issued a decision, remanding the application “to the examiner for action consistent with the reasoning herein with regard to the rejection of claims 54, 63-69, 73-79 and 83-89 under 35 U.S.C. 103.”.

9. The second period of USPTO delay spans July 10, 2001 until July 30, 2004. The number of days in this period is 1116.

10. On December 12, 2005, the applicant filed a notice of appeal.

11. On January 31, 2008, the BPAI mailed a decision reversing the rejections of all of the pending claims.

12. The third period of USPTO delay spans December 12, 2005 until January 31, 2008. The number of days in this period is 781.

13. On August 22, 2008, the applicant filed a notice of appeal.

14. On January 20, 2011, the BPAI mailed a decision reversing the rejections claims 50-89.

15. The fourth period of USPTO delay spans August 22, 2008 until January 20, 2011. The number of days in this period is 882.

16. The total USPTO delay under 35 USC 154(b)(1)(C) is $1116 + 781 + 882 = 2779$.

OVERLAP AMONG 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C)

17. The first period of overlap spans March 2, 2004 until July 30, 2004. There are 150 days of overlap between the first period of USPTO delay and the second period of USPTO delay noted above.

18. The second period of overlap spans December 12, 2005 until January 31, 2008. There are 781 days of overlap between the first period of USPTO delay and the third period of USPTO delay noted above.

19. The third period of overlap spans August 22, 2008 until January 20, 2011. There are 882 days of overlap between the first period of USPTO delay and the fourth period of USPTO delay noted above.

TOTAL USPTO DELAY

20. The sum of the periods of USPTO delay are $2667 + 1116 + 781 + 882 = 5446$.

21. The sum of the periods of overlap are $150 + 781 + 882 = 1813$.

22. The total number of days of USPTO delay is $5446 - 1813 = 3633$.

APPLICANT DELAY

23. On July 10, 2001, the applicant filed a notice of appeal.

24. On September 13, 2002, the applicant filed an information disclosure statement.

25. The first period of applicant delay spans July 10, 2001 through September 13, 2002. The number of days in this period is 430.

26. On July 12, 2005, the USPTO mailed a non-final rejection.

27. On December 12, 2005, the applicant filed a notice of appeal.

28. The second period of applicant delay spans October 12, 2005 through December 12, 2005. The number of days in this period is 61.

29. The total applicant delay is $430 + 61 = 491$ days.

OTHER DELAY

30. There are no other periods of applicant delay or of USPTO delay besides the ones specified above.

31. Exhibit 1 attached hereto is an image of the Transaction History tab of PAIR for this application, showing the dates noted herein above.

III. Reasons Why the Relief Requested Should be Granted

The term extension applicable under the 35 USC 154 is calculated as follows:

A. 35 USC 154(b)(1)(A) - GUARANTEE OF PROMPT PATENT AND TRADEMARK

OFFICE RESPONSES

This section is not applicable.

B. 35 USC 154(b)(1)(B) - GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY

35 USC 154(b)(1)(B)(i) provides that the term of the patent shall be extended 1 day for each day in excess of three years from the application filing date that the PTO fails to issue an original patent, not including any time consumed by continued examination of the application requested by the applicant under section 132(b). As noted in facts 3-6 above, the number of days of 35 USC 154(b)(1)(B)(i) USPTO delay is 2667 days.

C. 35 USC 154(b)(1)(C) - GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS

35 USC 154(b)(1)(C)(iii) provides that the term of the patent shall be extended 1 day for each day of the appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability.

As noted in facts 7-16 above, the number of days of 35 USC 154(b)(1)(C)(iii) USPTO delay is 2779 days.

D. OVERLAP AMONG 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C)

As noted in facts 17-19 and 21 above, the number of days of overlap among 35 USC 154(b)(1)(A), 35 USC 154(b)(1)(B), AND 35 USC 154(b)(1)(C) is 1813 days.

E. APPLICANT DELAY

35 USC 154(b)(2)(C)(i) provides that the period of adjustment of the term of a patent shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

As noted in facts 23-29 above, the total applicant delay is 491 days.

IV. Conclusion

The net patent term adjustment is $2667 + 2779 - 1813 - 491 = 3142$ days.

V. Fee under 37 CFR 1.18(e)

An EFS credit card authorization in the amount of \$200 is submitted herewith to cover the fee for filing an application for the patent term adjustment.

Date 7/3/2011

Respectfully submitted,

/BruceMargulies/

BRUCE MARGULIES

Registration No: 64,175

Attorney of Record

BTM

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09-13-2000	Information Disclosure Statement considered
09-13-2000	Information Disclosure Statement (IDS) Filed
05-20-2008	Electronic Review
05-23-2008	Email Notification
05-23-2008	Mail Non-Final Rejection
05-21-2008	Non-Final Rejection
02-01-2008	Electronic Review
01-31-2008	Email Notification
01-21-2008	Mail BPAI Decision on Appeal - Reversed
01-29-2008	BPAI Decision - Examiner Reversed
10-05-2005	Case Docketed to Examiner in GAU
06-05-2006	Docketing Notice Mailed to Appellant
06-05-2006	Assignment of Appeal Number
05-17-2006	Appeal Awaiting BPAI Docketing
05-03-2006	Mail Reply Brief Noted by Examiner
04-29-2005	Reply Brief Noted by Examiner
04-03-2006	Date Forwarded to Examiner
03-17-2006	Reply Brief Filed
03-13-2006	Mail Examiner's Answer
03-06-2006	Examiner's Answer to Appeal Brief
12-20-2005	Date Forwarded to Examiner
12-12-2005	Appeal Brief Filed
12-12-2005	Notice of Appeal Filed
12-12-2005	Request for Extension of Time - Granted
10-06-2005	IPW TSS Processing by Tech Center Complete
05-09-2005	Miscellaneous Incoming Letter
07-12-2005	Mail Non-Final Rejection
06-24-2005	Non-Final Rejection
04-05-2005	Case Docketed to Examiner in GAU
03-09-2005	Court Processing Terminated
03-09-2005	Decision by CAFC - Dismissed
11-23-2004	Appeal to Court of Appeals
09-30-2004	Mail BPAI Decision on Reconsideration - Denied
09-30-2004	Doc on Reconsideration - Denied
08-06-2004	Request for Reconsideration of Appeal Dec
07-20-2004	Mail BPAI Decision on Appeal - Affirmed
07-29-2004	BPAI Decision - Examiner Affirmed
07-29-2004	Panel Remand to the Examiner by BPAI
04-23-2004	Docketing Notice Mailed to Appellant
04-23-2004	Assignment of Appeal Number
04-05-2004	Appeal Awaiting BPAI Docketing
10-01-2003	Mail Miscellaneous Communication to Applicant
09-30-2003	Miscellaneous Communication to Applicant - No Action Count
08-27-2003	Miscellaneous Incoming Letter
05-19-2003	Mail Reply Brief Noted by Examiner
05-18-2003	Reply Brief Noted by Examiner
05-01-2003	Date Forwarded to Examiner
04-22-2003	Reply Brief Filed
04-09-2003	IPW Scan & PACR Auto Security Review
03-11-2003	Mail Examiner's Answer
03-10-2003	Examiner's Answer to Appeal Brief
03-10-2003	Date Forwarded to Examiner
12-23-2002	Supplemental Appeal Brief
12-23-2002	Substitute Specification Filed
12-23-2002	Oath or Declaration Filed (Including Supplemental)
01-04-2003	Date Forwarded to Examiner
12-23-2002	Supplemental Appeal Brief
01-04-2003	Date Forwarded to Examiner
12-23-2002	Response after Non-Final Action
09-23-2002	Mail Non-Final Rejection
09-20-2002	Non-Final Rejection
09-19-2002	Change in Power of Attorney (May Include Associate POA)
09-18-2002	Correspondence Address Change
09-13-2002	Information Disclosure Statement (IDS) Filed
09-20-2002	Date Forwarded to Examiner
07-10-2001	Appeal Brief Filed
07-10-2001	Notice of Appeal Filed
04-23-2002	Case Docketed to Examiner in GAU
06-12-2000	Workflow - File Sent to Contractor
06-19-2001	Mail Non-Final Rejection
06-15-2001	Non-Final Rejection
04-11-2001	Amendment/Argument after Notice of Appeal
04-11-2001	Supplemental Papers - Oath or Declaration

04-18-2001 Date Forwarded to Examiner
 04-11-2001 Supplemental Appeal Brief
 04-06-2001 Date Forwarded to Examiner
 04-06-2001 Date Forwarded to Examiner
 03-02-2001 Appeal Brief Filed
 03-02-2001 Notice of Appeal Filed
 03-02-2001 Preliminary Amendment
 04-06-2001 Date Forwarded to Examiner
 03-02-2001 Continuing Prosecution Application - Continuation (ACPA)
 03-02-2001 Mail Express Abandonment (During Examination)
 03-02-2001 Express Abandonment (during Examination)
 03-02-2001 Workflow - Request for CPA - Finish
 03-09-2001 Mail Non-Final Rejection
 03-08-2001 Non-Final Rejection
 03-08-2001 Case Docketed to Examiner in GAU
 03-08-2001 Date Forwarded to Examiner
 03-08-2001 Withdrawal of Notice of Allowance
 03-02-2001 Workflow - Request for CPA - Begin
 03-08-2001 Date Forwarded to Examiner
 03-08-2001 Withdrawal of Notice of Allowance
 02-13-2001 Mail-Petition Decision - Granted
 02-13-2001 Workflow - Petition - Finish
 02-13-2001 Petition Entered
 05-16-2000 Issue Fee Payment Verified
 05-16-2000 Workflow - Drawings Finished
 05-16-2000 Workflow - Drawings Matched with File at Contractor
 05-16-2000 Workflow - Drawings Received at Contractor
 05-16-2000 Workflow - Drawings Sent to Contractor
 07-17-2000 Workflow - Complete W/F Records for Drawings
 04-21-2000 Mail Notice of Allowance
 04-21-2000 Notice of Allowance Data Verification Completed
 02-16-2000 Preliminary Amendment
 02-24-2000 Date Forwarded to Examiner
 02-16-2000 Continuing Prosecution Application - Continuation (ACPA)
 02-16-2000 Mail Express Abandonment (During Examination)
 02-16-2000 Express Abandonment (during Examination)
 01-11-2000 Power to Make Copies and/or Inspect
 12-14-1999 Information Disclosure Statement (IDS) Filed
 12-14-1999 Information Disclosure Statement (IDS) Filed
 11-16-1999 Mail Non-Final Rejection
 11-15-1999 Non-Final Rejection
 09-28-1999 Preliminary Amendment
 09-22-1999 Change in Power of Attorney (May Include Associate POA)
 09-22-1999 Change in Power of Attorney (May Include Associate POA)
 09-13-1999 Date Forwarded to Examiner
 08-17-1999 Continuing Prosecution Application - Continuation (ACPA)
 08-17-1999 Mail Express Abandonment (During Examination)
 08-17-1999 Express Abandonment (during Examination)
 09-04-1999 Communication - Re: Power of Attorney (PTOL-308)
 08-21-1999 Communication - Re: Power of Attorney (PTOL-308)
 06-30-1999 Mail Final Rejection (PTOL - 326)
 06-29-1999 Final Rejection
 06-25-1999 Withdraw Publications/Re-Exam Abandon
 05-05-1999 Information Disclosure Statement (IDS) Filed
 05-05-1999 Information Disclosure Statement (IDS) Filed
 06-18-1999 Information Disclosure Statement (IDS) Filed
 06-18-1999 Information Disclosure Statement (IDS) Filed
 06-03-1999 Correspondence Address Change
 05-29-1999 Mail Notice of Rescinded Abandonment
 05-29-1999 Notice of Rescinded Abandonment in TCs
 04-16-1999 Petition Entered
 04-12-1999 Mail Abandonment for Failure to Respond to Office Action
 04-12-1999 Aband. for Failure to Respond to O. A.
 04-09-1999 Change in Power of Attorney (May Include Associate POA)
 02-16-1999 Information Disclosure Statement (IDS) Filed
 02-16-1999 Information Disclosure Statement (IDS) Filed
 09-02-1998 Mail Non-Final Rejection
 08-31-1998 Non-Final Rejection
 04-10-1998 Case Docketed to Examiner in GAU
 02-26-1998 Application Dispatched from OIPE
 02-24-1998 Application Is Now Complete
 11-03-1997 Notice Mailed--Application Incomplete--Filing Date Assigned
 09-17-1997 IPW Scan & PACR Auto Security Review

07-22-1997 Initial Exam Team on

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